IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1219 of 1998

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgment? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

AJAY NAVNITRAI PARIKH

Versus

STATE OF GUJARAT

Appearance:

MR BD KARIA for the Petitioner.

GOVERNMENT PLEADER for Respondent No. 1

RULE SERVED for Respondent No. 2-3

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 01/03/2004

ORAL JUDGEMENT

By filing this revision application under Section 115 of the Code of Civil Procedure, the petitioner-original plaintiff has challenged the order passed by the appellate Judge, exercising powers under

Order 43 of the Code of Civil Procedure. By the impugned order, the Extra Assistant Judge, Rajkot, has allowed the appeal of the original defendants and order passed by the trial court below Exhibit 5 in Regular Civil Suit No.827 of 1996, is dismissed. By the impugned order, the appellate Judge rejected the original application of the plaintiff for interim injunction. Against the said order, this Civil Revision Application is filed.

In view of the amendment in Section 115 of the Code of Civil Procedure, this revision application against such an interlocutory order is not maintainable. Mr.Karia, learned Advocate for the Petitioner, submitted that in view of the aforesaid position of law, the petitioner seeks permission to withdraw this CRA, in order to prefer a petition under Article 227 of the Constitution of India, challenging the impugned order of the appellate court. Permission is granted, with a liberty to the petitioner to prefer a petition under Article 227 of the Constitution of India.

The petition accordingly stands disposed of as withdrawn. Rule is discharged. Interim relief is extended till 31.3.2004. No costs.

1st March, 2004 (P.B. Majmudar, J.)

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(apj)